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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,321	09/16/2003	James J. Fitzgibbon	78927	1330

22242 7590 10/18/2005

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EXAMINER

NGUYEN, PHUNG

ART UNIT PAPER NUMBER

2632

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/663,321

Applicant(s)

FITZGIBBON, JAMES J.

Examiner

Phung T. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>04/20/05</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4-6, 8-11, 13, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over King (U.S. Pat. 6,559,775).

**Regarding claim 1:** King discloses passive garage door opener using collision avoidance system comprising non-invasively detecting the occurrence of an event; and transmitting a control signal to the remote control access system in response to detecting the event (fig. 1, col. 2, lines 10-35) but King does not specifically teach detecting an actuation of at least one component of a motor vehicle. Since King teaches wireless signals are transmitted by the transmitter 27 based upon detection of an object in an area (an event), it would be obvious to the skilled artisan to recognize that the device of King can also generate a signal based upon detection of an event (e.g., actuation of at least one component of a motor vehicle) as desired.

**Regarding claim 2:** King discloses receiving an indication of proximity of the motor vehicle to the remote control access system; and wherein transmitting the control signal includes transmitting the control signal upon detection of the event and upon receiving the indication of proximity of the motor vehicle to the remote control access system (col. 2, lines 53-65, and col. 3, lines 38-50).

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**Regarding claim 4:** King discloses receiving an indication from a remote indicator source that a motor vehicle is in proximity to the remote control access system; receiving an indication of an actuation of at least one component of the motor vehicle; communicating the indication to a transmitter unit; and upon detection of the proximity of the motor vehicle and the receipt of the indication of the actuation, transmitting a control signal from the transmitter unit to the remote control access system (col. 2, lines 10-16, and col. 3, lines 38-50). Plus the consideration of claim 1 above.

**Regarding claim 5:** King discloses wherein communicating the indication of the occurrence of the event to the transmitter unit includes transmitting the indication using a wire as shown in figure 1.

**Regarding claim 6:** King discloses wherein communicating the indication includes transmitting an electromagnetic signal over the air (col. 3, lines 38-40).

**Regarding claim 8:** All the claimed subject matter is already discussed in respect to claim 1 above.

**Regarding claim 9:** King inherently discloses a battery, coupled to the detection circuit (col. 3, lines 26-32).

**Regarding claim 10:** King discloses wherein the transmitter circuit comprises means for determining whether the motor vehicle is in proximity to the remote control access system (col. 2, lines 52-60).

**Regarding claim 11:** King discloses wherein the transmitter circuit comprises means for transmitting a control code if the motor vehicle is in proximity to the remote control access system and upon detection of the indication (col. 2, lines 1-9, and col. 3, lines 38-50).

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**Regarding claim 13:** King discloses wherein the control signal is a rolling code (col. 2, lines 7-9).

**Regarding claim 15:** King discloses a detection circuit for sensing the actuation of at least one component of a motor vehicle; a proximity detection circuit for detecting whether the motor vehicle is in proximity to the remote access system; a transmitter circuit coupled to the detection circuit and the proximity detection circuit; such that the transmitter circuit sends a control signal upon the sensed actuation and the indication that the motor vehicle is in proximity to the remote control access system (col. 2, lines 10-16, and col. 3, lines 38-50). Plus the consideration of claim 1 above.

**Regarding claim 16:** Refer to claim 5 above.

**Regarding claim 17:** Refer to claim 6 above.

3. Claims 3, 7, 12, 14, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over King in view of Facory (U.S. Pat. 6,147,597).

**Regarding claim 3:** King discloses the occurrence of the actuation of the collision avoidance sensor (col. 2, lines 10-16) but does not teach the claimed wherein detecting the event includes detecting at least one of the occurrence of the actuation of an automotive light; actuation of a brake; motion of a window; activation of a lock; movement of a mirror; movement of a radio control; movement of a moon roof or sun roof opening; movement of a windshield wiper blade; actuation of a heater; setting of a cruise control. However, Facory discloses vehicle-integrated access control device which comprises detecting the event includes detecting at least one of the occurrence of the actuation of an automotive light (col. 5, lines 41-54). Therefore, it would have

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been obvious to one of ordinary skill in the art at the time the invention was made to employ the technique of Facory in the system of King as an alternative way of operating the door or gate from a motor vehicle.

**Regarding claim 7:** Refer to claim 3 above.

**Regarding claim 12:** Refer to claim 3 above.

**Regarding claim 14:** Facory discloses wherein the component is one of a headlight, turning signal, brake, window, lock, mirror, wiper blade, heater, moon-roof or cruise control (col. 5, lines 41-44).

**Regarding claim 18:** Refer to claim 3 above.

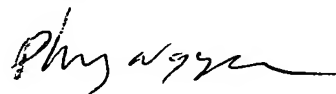
***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung T Nguyen whose telephone number is 571-272-2968. The examiner can normally be reached on 8:00am-5:30pm Mon thru. Friday, with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on 571-272-2964. The fax numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 571-273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

**PHUNG T. NGUYEN  
PRIMARY EXAMINER**



Date: October 13, 2005